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LEGEND

Distributing =

Controlled =

State X =

Business A =

Parcel 1 =

a =

Dear

We respond to your October 16, 2012, request for rulings under §355 of the Internal Revenue Code on certain Federal income tax consequences of a Proposed Transaction. The material information submitted in that request and in subsequent correspondence is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. This office has not verified any of the material

submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process. In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the Proposed Transaction: (i) satisfies the business purpose requirement of §1.355-2(b) of the Income Tax Regulations; (ii) is being used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both (see §355(a)(1)(B) and §1.355-2(d)); or (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in Distributing or Controlled (see §355(e) and §1.355-7).

Summary of Facts

Distributing, a State X corporation, has two classes of stock outstanding (Class A and Class B). Each class has equal rights as to dividend distributions and liquidation proceeds. Class A shares are voting while Class B shares are nonvoting. Distributing's stock is held by a shareholders.

Distributing conducts Business A. The financial information submitted by Distributing indicates that Business A has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

Distributing holds a number of properties that it employs in Business A, including Parcel 1. Parcel 1 is located within an area of known groundwater contamination, which is the subject of investigative and remediation efforts (the "Site"). The contamination has been sourced in part to a property in the vicinity of Parcel 1; other properties in the general vicinity of the Site with similar historical industrial uses might have contributed to the contamination.

Distributing has received a legal opinion advising it to transfer its assets other than Parcel 1 and a proportionate amount of cash or other assets necessary to operate Business A on Parcel 1 (the "Other Business A Properties") to a new subsidiary corporation and distribute the stock of that new subsidiary to its shareholders, in order to reduce the risk that such other properties might become subject to environmental claims or liability associated with the Site. Thus, Distributing has organized Controlled as a State X corporation (with the identical capital structure as Distributing), and has proposed the following transaction:

- (i) Distributing will transfer the Other Business A Properties to Controlled in exchange for all of the Controlled stock and Controlled's assumption of certain Distributing's Business A liabilities (the "Contribution"). Controlled's stock will be comprised of Controlled Class A shares (voting)

and Controlled Class B shares (nonvoting); the shares will have equal rights as to dividend distributions and liquidation proceeds.

- (ii) Distributing will distribute all of the Controlled stock pro rata to its shareholders (the "Distribution"). In the Distribution, holders of Distributing Class A shares will receive an amount of Controlled Class A shares equal in number to their Distributing Class A shareholdings, and holders of Distributing Class B will receive an amount of Controlled Class B shares equal in number to their Distributing Class B shareholdings.

Representations

Distributing has made the following representations regarding the Proposed Transaction:

- (a) No part of the consideration to be distributed by Distributing will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of the corporation.
- (b) Neither Business A (as conducted by Distributing) nor control of an entity conducting this business will have been acquired during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (c) The five years of financial information submitted on behalf of Business A, conducted by Distributing, is representative of the present operation of Business A and there have been no substantial operational changes in the business since the date of the last financial statements submitted.
- (d) Following the Distribution, Distributing and Controlled each will continue independently with its separate employees the active conduct its share of the integrated activities of Business A conducted by Distributing prior to the Proposed Transaction.
- (e) The Distribution is being carried out for the following business purpose: to protect the Other Business A Properties from potential environmental liabilities associated with Parcel 1. The Distribution is motivated, in whole or substantial part, by this corporate business purpose.
- (f) The transaction is not being used principally as a device for the distribution of earnings and profits of Distributing, Controlled or both.

- (g) The total adjusted bases and the fair market value of the assets transferred to Controlled by Distributing each equals or exceeds the sum of the liabilities assumed (within the meaning of §357(d)) by Controlled.
- (h) The total adjusted basis and fair market value of the assets transferred to Controlled in the Contribution will equal or exceed the sum of (i) the total liabilities assumed (as determined under section 357(d)) by Controlled in the Contribution, (ii) the amount of any liabilities owed to Controlled by Distributing, if any, that are discharged or extinguished in connection with the Contribution, and (iii) the total amount of any money and the fair market value of any other property (within the meaning of section 361(b)), if any, received by Distributing from Controlled in connection with the Contribution.
- (i) The total fair market value of the assets transferred to Controlled in the Contribution will be equal to or exceed Distributing's aggregate adjusted basis in those assets immediately before the Contribution.
- (j) Distributing neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Proposed Transaction.
- (k) The liabilities assumed (within the meaning of §357(d)) were incurred in the ordinary course of business and are associated with the assets being transferred.
- (l) No intercorporate debt will exist between Distributing and Controlled at the time of, or subsequent to, the Distribution.
- (m) Payments made in connection with all continuing transactions, if any, between Distributing and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (n) No two parties to the transaction are investment companies as defined in §368(a)(2)(F)(iii) and (iv).
- (o) For purposes of §355(d), immediately after the Distribution, no person (determined after applying §355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing stock, that was acquired by purchase (as defined in §355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distribution.

- (p) For purposes of §355(d), immediately after the Distribution, no person (determined after applying §355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of any Controlled stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled stock, that either: (i) was acquired by purchase (as defined in §355(d)(5) and (8)) during the five-year period (determined after applying §355(d)(6)) ending on the date of the Distribution; or (ii) is attributable to distributions on Distributing stock or securities that was acquired by purchase (as defined in §355(d)(5) and (8)) during the five-year period (determined after applying §355(d)(6)) ending on the date of the Distribution.
- (q) The Distribution is not part of a plan or series of related transactions (within the meaning of §1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of §355(d)(4)) in Distributing, or Controlled (including any predecessor or successor of any such corporation).
- (r) Immediately after the transaction (within the meaning of §355(g)(4)), neither Distributing nor Controlled will be a disqualified investment corporation (within the meaning of §355(g)(2)).
- (s) Distributing will be a U.S. real property holding corporation within the meaning of §897(c)(2) (a "USRPHC") immediately before the Distribution, and Distributing and Controlled each will be a USRPHC immediately after the Distribution.

Rulings

Based solely on the information submitted and representations made, we rule as follows:

- (1) The Contribution and the Distribution, taken together, will qualify as a reorganization within the meaning of §368(a)(1)(D). Distributing and Controlled each will be a party to the reorganization within the meaning of §368(b).
- (2) Distributing will not recognize any gain or loss on its transfer of assets to Controlled in exchange for Controlled stock and Controlled's assumption of liabilities in the Contribution (§§361(a) and 357(a)).
- (3) Controlled will not recognize any gain or loss on its receipt of assets from Distributing in exchange for Controlled stock and Controlled's assumption of liabilities in the Contribution (§1032(a)).

- (4) Controlled's basis in each asset received from Distributing in the Contribution will equal the basis of that asset in Distributing's hands immediately before the Contribution (§362(b)).
- (5) Controlled's holding period in each asset received from Distributing in the Contribution will include the period during which Distributing held that asset (§1223(2)).
- (6) Distributing will not recognize any gain or loss upon its distribution of Controlled stock to its shareholders in the Distribution (§361(c)).
- (7) No gain or loss will be recognized by (and no amount will be included in the income of) the Distributing shareholders on the receipt of Controlled stock in the Distribution (§355(a)(1)).
- (8) The basis of the Distributing stock and the stock of Controlled in the hands of each Distributing shareholder after the Distribution will equal the basis of the Distributing stock held by the shareholder immediately before the Distribution. This aggregate basis will be allocated between the Distributing and Controlled stock in proportion to the fair market values of the Distributing and Controlled stock immediately after the Distribution in accordance with §1.358-2(a)(2) (§358(a)(1), (b) and (c)).
- (9) The holding period of the Controlled stock received by each Distributing shareholder in the Distribution will include the holding period of the Distributing stock on which the Distribution will be made, provided the Distributing stock is held as a capital asset on the date of the Distribution (§1223(1)).
- (10) Earnings and profits, if any, will be allocated between Distributing and Controlled in accordance with §312(h) and §1.312-10(a).

We express no opinion about the tax treatment of any transaction described above under other provisions of the Code and regulations or the tax treatment of any condition existing at the time of, or effect resulting from, any of these transactions that is not specifically covered by the above rulings. In particular, no opinion is expressed as to whether the Distribution satisfies the business purpose requirement of §1.355-2(b), whether the transaction is used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation or both (see §355(a)(1)(B) and §1.355-2(d)), and whether the Distribution and the acquisition or acquisitions are part of a plan (or series of related transactions) under §355(e)(2)(A)(ii).

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

It is important that a copy of this ruling letter be attached to the Federal income tax return of each party involved for the taxable year in which the transaction covered by this letter is consummated. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their returns that provides the date and control number (PLR-14506612) of this letter ruling.

Pursuant to the power of attorney on file in this Office, a copy of this letter is being sent to Distributing's authorized representative.

Sincerely yours,

Maury Passman
Senior Technician Reviewer, Branch 1
Office of Associate Chief Counsel
(Corporate)